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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,831	08/01/2003	Damien Michel Andre Camelot	069818-1301	1704

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EXAMINER
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PRATT, HELEN F

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/631,831

Applicant(s)

CAMELOT ET AL.

Examiner

Helen F. Pratt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The reference EP 527570 A1 is not relevant to the instant invention and has been marked off the IDS. Submission of the correct reference is required.

Also the reference to Molecular Structure, page 2617 is not readable.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung et al. (EP 0699392 A2) or Wu et al. (6,153,236) or Percel et al. (4,537,784). in view of Borsook et al. and Schouten. .

Chung et al. disclose that it is known to coat solid acids in powder form in a fluidized bed apparatus (page 5, lines 22-30). Also, Wu et al. disclose that it is known to encapsulate lactic acid in a low melt oil (abstract and Col. 1, lines 30-31). Percel et al. disclose that it is known to plate lactic acid onto a calcium lactate carrier, which is encapsulated. This process is seen to make a dry lactic acid which is seen to have been crystalline. Claims 1 and 2 differ from the reference in the use of crystalline lactic acid particles (CLAP). However, Borsook et al. disclose that crystalline LA is well known. Schouten discloses the structure of CLAP. As it is known to coat other solid

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acids in a fluidized bed apparatus, it would have been obvious to coat LA also since it can be in a crystalline solid form.

CLA is disclosed by Schouten as in claim 3 and the use of oil in claim 4 is disclosed by Wu et al. (abstract). The melting point of oils is generally between the claimed range as in claim 4 (col. 4, lines 20-30). Therefore, it would have been obvious to use oils at within the claimed melting points as disclosed by Wu and Schouten in the composition of Chung et al. and Wu et al.

Claim 6 further requires a wetting agent which is silica as in claim 7. Percel et al. disclose that it is known to use silicon dioxide as a substrate when plating LA. (col. 10, lines 5-35). Therefore, it would have been obvious to use a known type of silica in the claimed composition.

Claim 8 further requires the use of partially hydrogenated palm oil which melts at 61 C for the encapsulating agent. Such oils are disclosed by Wu et al. (col. 4, lines 1-30). Therefore, it would have been obvious to use a known oil in the claimed composition.

Claim 9 further requires up to 95% LA. Certainly, the above references contain various amounts under 95%.

The coating materials are seen to contain various amounts of coating material and wetting agents. The various amounts are seen to have been within the skill of the ordinary worker. Therefore, it would have been obvious to use various amounts of materials in the composition.

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Nothing is seen as in claim 12 that the LA of the combined references is not dispersable in water in 60 minutes.

Wu et al. discloses that LA can be used in sausage as in claims 13 and 14, 16 (col. 7, lines 55-65).

The stability of a food product would have been enhanced as in claim 15, since the LA is an acid, which is known to reduce the pH of foods thereby increasing the shelf life of food. Therefore, it would have been obvious to use CLAP in food products just as LA was used as shown by the combined references.

Claims 18-20 are to the method of coating LA crystals which has been shown by the combined references. As it is known to make crystals of LA, and it is known to coat liquid, LA, and it is known to coat solid acids, it would have been obvious to use known methods to coat solid acids as shown by Chung et al.

The particular micron size is seen to have been within the skill of the ordinary worker depending on the use of the CLAP as in claim 19 and fluidized coater are disclosed by Chung et al. (page 5, lines 18-25). Therefore, it would have been obvious to coat a solid acid as shown by Chung et al.

#### **RESTRICTION/ELECTION**

Applicant's election with traverse of claims 1-16, 18-20 in the reply filed on 10-20-06 is acknowledged. The traversal is on the ground(s) that it would have been burdensome to search all the species claimed. This is not found persuasive because putting CLAP into various materials makes different product. Certainly, candy, meat, bakery products are not considered similar products.

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Claim 17 is removed as a non-elected claim. Claim 17 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claim, there being no allowable generic or linking claim.


The requirement is still deemed proper and is therefore made FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen F. Pratt whose telephone number is 571-272-1404. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano, can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hp 11-15-06

  
**HELEN PRATT**  
**PRIMARY EXAMINER**